IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.6584 OF 2005

Jaywant @ Pintya Yashwant Dhavre. ..Applicant.
Vs.
The State of Maharashtra. ..Respondent.

Mr. V.V. Purwant for the applicant.
Mr. K.V. Saste, APP. for the State.

CORAM : A.M. KHANWILKAR,J.
DATED : OCTOBER 28, 2005.

P.C.

1. This is the second bail application preferred by the applicant who has been named as one of the assailant by the prosecution wittiness. The evidence of the prosecution witnesses indicate that the applicant was holding sword at the relevant time.

2. The first bail application was rejected by me on 25.10.2004, for the reasons recorded in that order, taking the view that the applicant's role has been described by the prosecution witnesses and the offence was serious offence.

3. The applicant has also relied on the order passed in the case of co accused Yogesh Ahiwale by brother Justice A.S. Oka on 2.9.2005. By the said order Yogesh Ahiwale was released on bail on conditions referred in the said order. It is contended that the role of the applicant

and the co accused Yogesh Ahiwale is similar and the reasons recorded in the said order will squarely apply to the present applicant. In so far as that accused, this court has taken a view that even though fracture to the skull is disclosed in the post mortem notes, however, such fracture could not have been caused by a broken bottle. In the present case, witnesses have stated that the applicant assaulted the injured by sword. All injuries are contused wounds. There are no incised wounds noted in the post mortem report. The cause of death is stated to be due to head injury. In my opinion, therefore, applicant is justified in relying on the order passed in the case of co accused and he will be entitled for bail on parity. The applicant is in custody since 8.1.2004. The trial has been referred to the fast track court and the charge has been framed. The applicant is entitled for parity alongwith accused Yogesh Ahiwale. The application is therefore, allowed on the following conditions.

ORDER

i) The applicant shall be enlarged on bail in connection with C.R.No.4 of 2004 of Phaltan Police Station subject to furnishing a personal bond of Rs.15,000/- with two local sureties in the like amount.

ii) The bail is granted subject to condition that till the conclusion of trial, the applicant will not enter the area falling within the jurisdiction of Phaltan Police Station.

iii) The effect will be given to this order only after the applicant furnishes to the Investigating Officer a detailed address of the place of residence where he proposes to stay after he is enlarged on bail.

iv) The bail is granted subject to condition that till the conclusion of the trail, he will report to the concerned local police station once a week.

v) The bail is granted subject to condition that the applicant shall not, directly or indirectly, make any inducement or threat to any prosecution witnesses and shall not in any manner tamper with the prosecution evidence.

vi) The applicant shall co operate with the learned Trial Judge for expeditious disposal of the trail.Any attempt by the applicant to delay the trail may be a ground for cancellation of bail.

vii) Any observation made in this order shall not be construed as any finding or any expression of opinion on the merits of the case at the time of trial.

viii) Application is disposed of in above terms.

(A.M.KHANWILKAR, J.)